

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FULL CIRCLE UNITED, LLC,

Plaintiff,

v.

BAY TEK ENTERTAINMENT, INC.,

Defendant.

CASE NO. 1:20-CV-03395

BAY TEK ENTERTAINMENT, INC.,

Counterclaim Plaintiff,

v.

FULL CIRCLE UNITED, LLC,

Counterclaim Defendant,

and

ERIC PAVONY,

Additional Counterclaim Defendant.

DECLARATION OF LEO M. LICHTMAN

I, Leo M. Lichtman, hereby declare as follows:

1. I am an associate with the law firm Mitchell Silberberg & Knupp LLP, counsel of record for Defendant/Counterclaim Plaintiff Bay Tek Entertainment, Inc. (“Bay Tek”). I am admitted to practice before this Court.

2. I respectfully submit this declaration in support of Bay Tek's response in opposition to the objections filed by Plaintiff/Counterclaim Defendant Full Circle United, LLC ("Full Circle") and additional Counterclaim Defendant Eric Pavony ("Pavony") (together, "Full Circle") to the Special Master's July 16, 2021 Order, entitled Order No. 1, ECF No. 76-1 (the "Order"). Unless otherwise stated, I have personal knowledge of the following facts and if called and sworn as a witness I could and would competently testify thereto.

3. Attached hereto as **Exhibit A** is a true and correct copy of the July 17, 2014 settlement agreement between Skee-Ball, Inc., on the one hand, and Full Circle United, LLC on the other hand (the "Settlement Agreement").

4. Attached hereto as **Exhibit B** is a true and correct copy of the July 17, 2014 license agreement between Skee-Ball, Inc., on the one hand, and Full Circle United, LLC on the other hand (the "License Agreement").

5. Bay Tek has produced the long-form assignment of the Mark by SBI to Bay Tek as well as a document titled "Assignment and Assumption Agreement," which provides that SBI assigns, and Bay Tek thereby assumes, the License Agreement with Full Circle. Both documents are designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY due to the highly sensitive nature of the information contained therein. Bay Tek will provide the documents to the Court for *in camera* review should the Court so desire.

6. Attached hereto as **Exhibit C** is a true and correct copy of Justice Kornreich's biography, taken from the JAMS website, <https://www.jamsadr.com/kornreich/>.

7. Attached hereto as **Exhibit D** is a true and correct copy of two emails that I sent to Full Circle's counsel on July 19, 2021. The more recent email (sent at 5:22 pm) sets forth Bay

Tek's proposed keyword modifiers, and the earlier email (sent at 4:22 pm) sets forth Bay Tek's search report pursuant to those proposed modifiers.

8. Attached hereto as **Exhibit E** is a true and correct copy of an email that I sent to Full Circle's counsel on July 21, 2021, which set forth Bay Tek's search report pursuant to the keyword modifiers that Full Circle had proposed. The report therein contains the date limitations ordered by Justice Kornreich and is thus even narrower than Full Circle's proposal would be pursuant to the broader time periods Full Circle requests.

9. At oral argument before Justice Kornreich on July 16, 2021, counsel for Full Circle displayed an alleged Facebook posting concerning Beer Ball. The alleged posting to my knowledge has not been produced, and I have not seen the posting since it was displayed by Full Circle's counsel at the conference. My recollection however is that the posting purportedly advertised a Beer Ball event and included the phrase "Skee-Ball." I do not recall the posting containing any obscenities, references to violence, or encouragements to engage in substance abuse.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 20th day of August, 2021 at Brooklyn, New York.

/s/ Leo M. Lichtman
LEO M. LICHTMAN